

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

DANIEL DAWIDZIONEK,

Plaintiff,

v.

Case No. 21-C-1371

KILOLO KIJAKAZI, Commissioner
of Social Security,

Defendant.

ORDER DENYING MOTION TO PROCEED *IN FORMA PAUPERIS*

Plaintiff Daniel Dawidzionek has filed a complaint seeking review of the decision of the Commissioner of Social Security. Plaintiff has requested leave to proceed *in forma pauperis*, pursuant to 28 U.S.C. § 1915, which permits an indigent plaintiff to commence a federal court lawsuit without paying required filing fee. *In forma pauperis* is Latin for “in the manner of a pauper.” BLACK’S LAW DICTIONARY, at 783 (West 1999). A motion seeking such relief must be supported by an affidavit asserting an inability “to pay such fees or give security therefor” and stating “the nature of the action, defense or appeal and affiant’s belief that the person is entitled to redress.” 28 U.S.C. § 1915(a)(1). Plaintiff filed such an affidavit, but it fails to show indigence.

The affidavit states Plaintiff has monthly wages of \$1,330.00 and lists public assistance from both Texas and Wisconsin amounting to \$595.37. It is unclear of the amount of public assistance is a total of funds received from the previous 12 months. Plaintiff lists monthly expenses of \$ 298.00 per month. Although the form requests all income received from any source in the previous twelve months, Plaintiff does not list government stimulus funds received. By his own account he has \$ 1,032.00 per month in disposable income. I also note that plaintiff’s yearly

income of \$15,960.00 exceeds the United States Department of Health and Human Services (HHS) 2021 poverty guideline of \$12,880.00. *See* Annual Update of the HHS Poverty Guidelines, 86 Fed. Reg. 7732, 7733 (Feb. 1, 2021).

The purpose of the petition and affidavit form is to explain to the court why the plaintiff's filing fee should be waived. This affidavit does not do so. The law requires litigants to pay a filing fee unless they are too poor to do so. On this record, plaintiff's motion must be denied. The denial is without prejudice, however. It may be that plaintiff also failed to include all of his allowable monthly expenses or there is another reason for being unable to pay the filing fee. If that is the case, plaintiff may file a new motion to proceed without paying a filing fee. Absent additional justification and based on this record, however, the fee will not be waived. Accordingly, Plaintiff's request to proceed *in forma pauperis* is denied and Plaintiff shall pay the filing fee within 21 days of the date of this order or risk dismissal.

Dated at Green Bay, Wisconsin this 8th day of December, 2021.

s/ William C. Griesbach

William C. Griesbach
United States District Judge